

104TH CONGRESS
2D SESSION

H. R. 3551

To amend the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property” to confirm and clarify the authority and responsibility of the Secretary of the Army, acting through the Chief of Engineers, to promote and carry out shore protection projects, including beach nourishment projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 1996

Mr. SHAW (for himself, Mr. PALLONE, Mr. FOLEY, Mr. CASTLE, Mr. ANDREWS, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Act entitled “An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property” to confirm and clarify the authority and responsibility of the Secretary of the Army, acting through the Chief of Engineers, to promote and carry out shore protection projects, including beach nourishment projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Shore Protection Act
3 of 1996”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the beach, shore, and coastal resources of
7 the United States—

8 (A) are critical assets that must be pro-
9 tected, conserved, and restored; and

10 (B) provide economic and environmental
11 benefits that are of national significance;

12 (2) a network of healthy and nourished beaches
13 is essential to the economy, competitiveness in world
14 tourism, and safety of coastal communities of the
15 United States;

16 (3)(A) the coasts of the United States are an
17 economic asset, supporting 34 percent of national
18 employment, or 28,000,000 jobs; and

19 (B) the 413 coastal communities of the United
20 States generate \$1,300,000,000,000, or $\frac{1}{3}$, of the
21 gross domestic product;

22 (4)(A) travel and tourism—

23 (i) is the second largest sector of the econ-
24 omy of the United States; and

25 (ii) contributed over \$746,000,000,000 to
26 the gross domestic product in 1995;

1 (B) the health of the beaches and shoreline of
2 the United States contributes to this economic bene-
3 fit, since the leading tourist destinations in the Unit-
4 ed States are beaches; and

5 (C) 85 percent of all tourism-generated revenue
6 in the United States derives from coastal commu-
7 nities;

8 (5)(A) the value of the coastline of the United
9 States lies not only in the jobs and revenue that the
10 coastline generates, but also in the families, homes,
11 and businesses that the coastline protects from hur-
12 ricanes, typhoons, and tropical and extratropical
13 storms;

14 (B) almost 50 percent of the total United
15 States population lives in coastal communities; and

16 (C) beaches provide protection to prevent the
17 destruction of life and hundreds of billions of dollars
18 worth of property;

19 (6) shoreline protection projects can provide ec-
20 ological and environmental benefits by providing for,
21 or by restoring, marine and littoral habitat;

22 (7)(A) the coastline of the United States is a
23 national treasure, visited by millions of Americans
24 and foreign tourists every year;

1 (B) over 90,000,000 Americans spend time
2 boating or fishing along the coast each year; and

3 (C) the average American spends 10 rec-
4 reational days per year on the coast; and

5 (8) since shoreline protection projects generate
6 positive economic, recreational, and environmental
7 outcomes that benefit the United States as a whole,
8 Federal responsibility for preserving this valuable re-
9 source should be maintained.

10 (b) PURPOSE.—The purpose of this Act is to provide
11 for a Federal role in shore protection projects, including
12 projects involving the replacement of sand, for which the
13 economic and ecological benefits to the locality, region, or
14 Nation exceed the costs.

15 **SEC. 3. SHORE PROTECTION.**

16 (a) IN GENERAL.—The first section of the Act enti-
17 tled “An Act authorizing Federal participation in the cost
18 of protecting the shores of publicly owned property”, ap-
19 proved August 13, 1946 (33 U.S.C. 426e), is amended—

20 (1) in subsection (a)—

21 (A) by striking “damage to the shores”
22 and inserting “damage to the shores and beach-
23 es”; and

24 (B) by striking “the following provisions”
25 and all that follows through the period at the

1 end and inserting the following: “this Act, to
2 promote shore protection projects and related
3 research that encourage the protection, restora-
4 tion, and enhancement of sandy beaches, in-
5 cluding beach restoration and periodic beach
6 nourishment, on a comprehensive and coordi-
7 nated basis by the Federal Government, States,
8 localities, and private enterprises. In carrying
9 out this policy, preference shall be given to
10 areas in which there has been a Federal invest-
11 ment of funds and areas with respect to which
12 the need for prevention or mitigation of damage
13 to shores and beaches is attributable to Federal
14 navigation projects or other Federal activities.”;

15 (2) in subsection (d), by striking “or from the
16 protection of nearby public property” and inserting
17 “, if there are sufficient benefits to local and re-
18 gional economic development and to the local and re-
19 gional ecology (as determined under subsection
20 (e)(2)(B)),”; and

21 (3) in subsection (e)—

22 (A) by striking “(e) No” and inserting the
23 following:

24 “(e) AUTHORIZATION OF PROJECTS.—

25 “(1) IN GENERAL.—No”; and

1 (B) by adding at the end the following:

2 “(2) STUDIES.—

3 “(A) IN GENERAL.—The Secretary shall—

4 “(i) recommend to Congress studies
5 concerning shore protection projects that
6 meet the criteria established under this Act
7 (including subparagraph (B)(iii)) and
8 other applicable law;

9 “(ii) conduct such studies as Congress
10 requires under applicable laws; and

11 “(iii) report the results of the studies
12 to the appropriate committees of Congress.

13 “(B) RECOMMENDATIONS FOR SHORE PRO-
14 TECTION PROJECTS.—

15 “(i) IN GENERAL.—The Secretary
16 shall recommend to Congress the author-
17 ization or reauthorization of shore protec-
18 tion projects based on the studies con-
19 ducted under subparagraph (A).

20 “(ii) CONSIDERATIONS.—In making
21 recommendations, the Secretary shall con-
22 sider the economic and ecological benefits
23 of a shore protection project and the abil-
24 ity of the non-Federal interest to partici-
25 pate in the project.

1 “(iii) CONSIDERATION OF LOCAL AND
2 REGIONAL BENEFITS.—In analyzing the
3 economic and ecological benefits of a shore
4 protection project, or a flood control or
5 other water resource project the purpose of
6 which includes shore protection, the Sec-
7 retary shall consider benefits to local and
8 regional economic development, and to the
9 local and regional ecology, in calculating
10 the full economic and ecological justifica-
11 tions for the project.

12 “(iv) NEPA REQUIREMENTS.—Noth-
13 ing in this subparagraph imposes any re-
14 quirement on the Army Corps of Engineers
15 under the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.).

17 “(C) COORDINATION OF PROJECTS.—In
18 conducting studies and making recommenda-
19 tions for a shore protection project under this
20 paragraph, the Secretary shall—

21 “(i) determine whether there is any
22 other project being carried out by the Sec-
23 retary or the head of another Federal
24 agency that may be complementary to the
25 shore protection project; and

1 “(ii) if there is such a complementary
2 project, describe the efforts that will be
3 made to coordinate the projects.

4 “(3) SHORE PROTECTION PROJECTS.—

5 “(A) IN GENERAL.—The Secretary shall
6 construct, or cause to be constructed, any shore
7 protection project authorized by Congress, or
8 separable element of such a project, for which
9 funds have been appropriated by Congress.

10 “(B) AGREEMENTS.—

11 “(i) REQUIREMENT.—After authoriza-
12 tion by Congress, and before commence-
13 ment of construction, of a shore protection
14 project or separable element, the Secretary
15 shall enter into a written agreement with a
16 non-Federal interest with respect to the
17 project or separable element.

18 “(ii) TERMS.—The agreement shall—

19 “(I) specify the life of the
20 project; and

21 “(II) ensure that the Federal
22 Government and the non-Federal in-
23 terest will cooperate in carrying out
24 the project or separable element.

1 “(C) COORDINATION OF PROJECTS.—In
 2 constructing a shore protection project or sepa-
 3 rable element under this paragraph, the Sec-
 4 retary shall, to the extent practicable, coordi-
 5 nate the project or element with any com-
 6 plementary project identified under paragraph
 7 (2)(C).

8 “(4) REPORT TO CONGRESS.—The Secretary
 9 shall report annually to the appropriate committees
 10 of Congress on the status of all ongoing shore pro-
 11 tection studies and shore protection projects carried
 12 out under the jurisdiction of the Secretary.”.

13 (b) REQUIREMENT OF AGREEMENTS PRIOR TO RE-
 14 IMBURSEMENTS.—

15 (1) SMALL SHORE PROTECTION PROJECTS.—
 16 Section 2 of the Act entitled “An Act authorizing
 17 Federal participation in the cost of protecting the
 18 shores of publicly owned property”, approved August
 19 13, 1946 (33 U.S.C. 426f), is amended—

20 (A) by striking “SEC. 2. The Secretary of
 21 the Army” and inserting the following:

22 **“SEC. 2. REIMBURSEMENTS.**

23 “(a) IN GENERAL.—The Secretary”;

24 (B) in subsection (a) (as so designated)—

1 (i) by striking “local interests” and
 2 inserting “non-Federal interests”;

3 (ii) by inserting “or separable element
 4 of the project” after “project”; and

5 (iii) by inserting “or separable ele-
 6 ments” after “projects” each place it ap-
 7 pears; and

8 (C) by adding at the end the following:

9 “(b) AGREEMENTS.—

10 “(1) REQUIREMENT.—After authorization of re-
 11 imbursement by the Secretary under this section,
 12 and before commencement of construction, of a
 13 shore protection project, the Secretary shall enter
 14 into a written agreement with the non-Federal inter-
 15 est with respect to the project or separable element.

16 “(2) TERMS.—The agreement shall—

17 “(A) specify the life of the project; and

18 “(B) ensure that the Federal Government
 19 and the non-Federal interest will cooperate in
 20 carrying out the project or separable element.”.

21 (2) OTHER SHORELINE PROTECTION
 22 PROJECTS.—Section 206(e)(1)(A) of the Water Re-
 23 sources Development Act of 1992 (33 U.S.C. 426i-
 24 1(e)(1)(A)) is amended by inserting before the semi-
 25 colon the following: “and enters into a written agree-

1 ment with the non-Federal interest with respect to
2 the project or separable element (including the terms
3 of cooperation)”.
4

5 (c) STATE AND REGIONAL PLANS.—The Act entitled
6 “An Act authorizing Federal participation in the cost of
7 protecting the shores of publicly owned property”, ap-
8 proved August 13, 1946, is amended—

9 (1) by redesignating section 4 (33 U.S.C. 426h)
10 as section 5; and

11 (2) by inserting after section 3 (33 U.S.C.
12 426g) the following:

13 **“SEC. 4. STATE AND REGIONAL PLANS.**

14 “The Secretary may—

15 “(1) cooperate with any State in the prepara-
16 tion of a comprehensive State or regional plan for
17 the conservation of coastal resources located within
18 the boundaries of the State;

19 “(2) encourage State participation in the imple-
20 mentation of the plan; and

21 “(3) submit to Congress reports and rec-
22 ommendations with respect to appropriate Federal
23 participation in carrying out the plan.”.

24 (d) DEFINITIONS.—

25 (1) IN GENERAL.—Section 5 of the Act entitled
 “An Act authorizing Federal participation in the

1 cost of protecting the shores of publicly owned prop-
2 erty”, approved August 13, 1946 (as redesignated
3 by subsection (c)(1)), is amended—

4 (A) by striking “SEC. 5. As used in this
5 Act, the word ‘shores’ includes all the shore-
6 lines” and inserting the following:

7 **“SEC. 5. DEFINITIONS.**

8 “In this Act:

9 “(1) SECRETARY.—The term ‘Secretary’ means
10 the Secretary of the Army, acting through the Chief
11 of Engineers.

12 “(2) SEPARABLE ELEMENT.—The term ‘sepa-
13 rable element’ has the meaning provided by section
14 103(f) of the Water Resources Development Act of
15 1986 (33 U.S.C. 2213(f)).

16 “(3) SHORE.—The term ‘shore’ includes each
17 shoreline of each”; and

18 (B) by adding at the end the following:

19 “(4) SHORE PROTECTION PROJECT.—The term
20 ‘shore protection project’ includes a project for
21 beach nourishment, including the replacement of
22 sand.”.

23 (2) CONFORMING AMENDMENTS.—The Act en-
24 titled “An Act authorizing Federal participation in

1 the cost of protecting the shores of publicly owned
2 property”, approved August 13, 1946, is amended—

3 (A) in subsection (b)(3) of the first section
4 (33 U.S.C. 426e(b)(3)), by striking “Secretary
5 of the Army, acting through the Chief of Engi-
6 neers,” and inserting “Secretary,”; and

7 (B) in section 3 (33 U.S.C. 426g), by
8 striking “Secretary of the Army” and inserting
9 “Secretary”.

10 (e) OBJECTIVES OF PROJECTS.—Section 209 of the
11 Flood Control Act of 1970 (42 U.S.C. 1962–2) is amend-
12 ed by inserting “(including shore protection projects such
13 as projects for beach nourishment, including the replace-
14 ment of sand)” after “water resource projects”.

○